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RULES OF AUCKLAND REGIONAL HOLDINGS

PURSUANT TO SECTION 23 (4) OF THE LOCAL
GOVERNMENT (AUCKLAND) AMENDMENT ACT 2004

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Rules of Auckland Regional Holdings

This document constitutes the rules of Auckland Regional Holdings made by the Auckland Regional Council by council resolution dated 26 September 2005 under section 23(4) of the Local Government (Auckland) Amendment Act 2004.

1. Interpretation

1.1 Definitions

In these Rules, unless the context otherwise requires:

Act means the Local Government (Auckland) Amendment Act 2004;

ARC means the Auckland Regional Council;

ARC Group means the ARC and any council-controlled organisation of the ARC;

ARH means Auckland Regional Holdings constituted under the Act;

ARH Controlled Organisation means any organisation in respect of which ARH has control of:

- (a) the exercise of 50% or more of the voting rights at a meeting of (if that organisation is a company) the shareholders of the company or (if that organisation is not a company) the members or the controlling body of that organisation; or
- (b) the appointment of 50% or more of the directors, trustees or managers (however described) of the organisation;

and includes an organisation:

- (c) which is a subsidiary (as defined in section 5(1) of the Companies Act 1993) of ARH;
- (d) which acts, or is accustomed to act, in accordance with the wishes of ARH; or
- (e) over which ARH is able (directly or indirectly) to exert a substantial degree of influence over that organisation's activities;

ARH Group means ARH and any ARH Controlled Organisation;

Board means Directors who number not less than the required quorum acting together as the board of directors of ARH;

Director means a person appointed as a director of ARH in accordance with these Rules;

Interests Register means the interests register maintained by ARH under these Rules;

Long Term Funding Plan means the then current long term funding plan of ARH under section 21 of the Act;

Material Transaction means:

- (a) the acquisition of, or an agreement to acquire (whether contingent or not):

- (i) any Strategic Asset; or
 - (ii) any other asset the market value of which is more than 5% of the market value of ARH's tangible assets before the acquisition;
- (b) the disposition of, or an agreement to dispose of, (whether contingent or not):
 - (i) any Strategic Asset; or
 - (ii) any other asset the market value of which is more than 5% of the market value of ARH's tangible assets before the disposition;
- (c) a transaction that has or is likely to have the effect of ARH acquiring rights or interests or incurring obligations or liabilities the value of which is more than 5% of the market value of ARH's tangible assets before the transaction; or
- (d) any transaction which may change the essential nature or scope of the activities of ARH or any ARH Controlled Organisation;

POAL means Ports of Auckland Limited;

Statement of Intent means the then current statement of intent of ARH under the Local Government Act 2002;

Strategic Asset means:

- (a) any asset owned, leased or otherwise held by ARH or any ARH Controlled Organisation relating to land transport (as defined in section 2 of the Land Transport Management Act 2003) in the Auckland region; and
- (b) any interest in real property or other asset designated as a strategic asset for the purposes of these Rules by the ARC by council resolution.

1.2 Construction

In these Rules, unless the context otherwise requires:

- (a) words or expressions defined in the Act have the same meaning in these Rules;
- (b) the headings appear as a matter of convenience and will not affect the construction of these Rules;
- (c) in the absence of an express indication to the contrary, references to rules are to these Rules;
- (d) a reference to any statute, statutory regulations or other statutory instrument includes the statute, statutory regulations or instrument as from time to time amended or re-enacted or substituted;
- (e) the singular includes the plural and vice versa and one gender includes the other gender;
- (f) without limiting the circumstances in which voting rights or the appointment of a director (or equivalent) is to be taken to be under the “**control**” of ARH, ARH is to be taken as having such control:

- (i) whether or not such control may exist or arise directly or indirectly, or together with another person, or under any agreement, arrangement or understanding;
 - (ii) if a person cannot be appointed as a director of the relevant organisation without the exercise by ARH of such a power in the person's favour; or
 - (iii) a person's appointment as a director of the relevant organisation follows necessarily from the person being a director or employee of ARH;
- (g) **"dispose"** means to:
- (i) sell, transfer, lease, grant a security interest over, part with possession or otherwise dispose of or deal with part or all of any right or interest in:
 - (A) any equity, debt or other security or other interest (including an option) in any organisation;
 - (B) any asset of any organisation; or
 - (ii) issue any equity, debt or other security or other interest (including an option) in any organisation;
- (h) **"establish"** includes (whether directly or indirectly, and whether or not with another person):
- (i) holding (or entering into an agreement or arrangement to acquire) any equity or other securities or other interest (or any right or option to any such securities or an interest in all or substantially all of the assets of) in any organisation; or
 - (ii) having (or entering into an agreement or arrangement with the effect of having):
 - (A) control of the exercise of any votes at any meeting of the shareholders, directors or beneficiaries or controlling body of that organisation;
 - (B) control of the appointment or removal of any trustee, director or manager (however described) of the organisation;
 - (C) the right to receive or direct the application of any dividend or other distribution (whether on liquidation, dissolution or otherwise) from an organisation; or
 - (D) significant influence in or over that organisation; or
 - (iii) settling, or being or appointing (or having the right to appoint) a trustee of, a trust;
- (i) **"organisation"** includes any company, partnership, trust, profit-sharing arrangement, joint venture, any association of persons (whether corporate or unincorporated and whether or not having separate legal personality) or similar arrangement;
- (j) the word **"person"** includes any association of persons whether corporate or unincorporated, and any state or government or department or agency thereof, whether or not having separate legal personality;
- (k) the words **"written"** and **"writing"** include facsimile communications and any other means of communication resulting in permanent visible reproduction; and

- (l) “**security interest**” has the meaning given to that term in section 17 of the Personal Property Securities Act 1999.

In determining for the purposes of rule 3:

- (a) the value of assets and liabilities, including contingent liabilities, the Directors:
- (i) in relation to ARH's assets and liabilities, must have regard to:
 - (A) the most recent financial statements of ARH that comply with section 69 of the Local Government Act 2002; and
 - (B) all other circumstances that the Directors know or ought to know affect, or may affect, the value of ARH's assets and the value of ARH's liabilities, including its contingent liabilities; and
 - (ii) may rely on valuations of assets or estimates of liabilities that are reasonable in the circumstances; and
- (b) the value of a contingent liability, account may be taken of:
- (i) the likelihood of the contingency occurring; and
 - (ii) any claim ARH is entitled to make and can reasonably expect to be met to reduce or extinguish the contingent liability.

2. **Compliance & Amendment**

2.1 **Subject to Legislation**

These Rules are subject to the provisions of the Act and any other enactment. If there is any inconsistency between these Rules and the Act or any other enactment, the Act or that enactment (as the case may be) will take precedence over these Rules.

2.2 **Compliance**

Each Director will comply with:

- (a) the Act, the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987 and any other applicable law; and
- (b) these Rules; and
- (c) any policies or procedures of ARH approved by the Board.

2.3 **ARH Controlled Organisations - Constitutions**

The Directors will ensure that the constitution (if a company) or other constitutive document (if not a company) of any ARH Controlled Organisation (other than POAL and its subsidiaries) is consistent with these Rules.

2.4 **Effective Date**

These Rules take effect on and from the date on which these Rules are notified in the Gazette in accordance with section 23(4) of the Act.

2.5 Policies of ARH

The Board will not approve (or give effect to) any policy of ARH which is likely to result in a material adverse effect on:

- (a) the ARC's financial position or performance; or
- (b) the ARC's ability to perform its responsibilities, functions or powers,

unless and until such policy has been approved by the ARC.

2.6 Amendment

These Rules may be amended by the ARC by council resolution. The ARC will consult with the Board prior to an amendment to these Rules. Any such amendment will take effect on and from the date such amendment is notified in the Gazette (or such later date as may be specified in such amendment).

3. Restricted Transactions

3.1 Restricted Transaction

Subject to rule 3.2, the Directors will ensure that ARH does not (either itself or through an ARH Controlled Organisation), without the prior written approval of the ARC:

- (a) enter into any transaction or series of linked or related transactions which constitutes a Material Transaction; or
- (b) establish or dispose of an organisation.

3.2 General Exclusion

The approval of the ARC under rule 3.1(a) is not required for any transaction or other activity:

- (a) authorised under the Long Term Funding Plan; or
- (b) undertaken by POAL.

3.3 Ports of Auckland - Share Disposal

Without limiting ARH's obligations under section 28 of the Act, before the Board proposes any sale or other disposition of the ownership or control of any shares held by ARH in POAL, the Board will:

- (a) notify the ARC of its intention to propose such sale or disposition;
- (b) consult with the ARC in relation to the matters set out in section 28 of the Act and have due regard to the views of the ARC in relation to those matters; and
- (c) to the extent practicable, involve the ARC in the procedures specified in section 28 of the Act.

3.4 Ports of Auckland – Shareholder Approvals

To the extent that any acquisition or disposition of an asset by POAL (or any subsidiary of POAL) requires the approval of ARH, in its capacity as a shareholder, under the Companies Act 1993, the constitution or statement of corporate intent of POAL or otherwise, the Board will ensure that ARH gives or does not give any such approval (as the case may be) in accordance with any direction of the ARC regarding that matter received by the Board prior to giving or not giving (as the case may be) such approval.

3.5 Ports of Auckland - Nominee Directors

The Board will ensure that any representative or nominee of ARH appointed as a director of POAL (or any subsidiary of POAL) will comply with these Rules, except to the extent otherwise required by the constitution of POAL (or the relevant subsidiary), the statement of corporate intent of POAL, the Port Companies Act 1988 or any other applicable law.

4. Appointment & Removal of Directors

4.1 Number

The number of Directors will not at any time be more than 6 nor less than 4.

4.2 Appointment & Removal

The ARC may appoint or remove a Director by written notice to such Director (with a copy to ARH) and publishing such notice in the Gazette as required by section 24 of the Act or clause 4(1)(d) of schedule 1 to the Act (as the case may be). The notice may:

- (a) state the date on which the appointment or removal (as the case may be) takes effect which must not be earlier than the date on which the notice is received by the Director; and
- (b) (in the case of a notice of appointment) state the term of the appointment.

4.3 Validity of Appointment

Subject to rule 4.4, the appointment of a person as Director is not invalid only because a defect existed in the appointment of that person.

4.4 Persons Disqualified as Directors

The following persons are disqualified from being Directors:

- (a) a person who is an undischarged bankrupt, or is subject to an arrangement or compromise with that person's creditors generally;
- (b) a person who is prohibited from being a director or promoter of, or being concerned or taking part in the management of, a company under sections 382, 383 or 385 of the Companies Act 1993;
- (c) a person who is subject to a property order made under sections 10, 11, 12, 30 or 31 of the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of that Act;
- (d) a person who, while holding office as a Director of ARH, is convicted of an offence punishable by a term of imprisonment of 2 years or more. The disqualification does not take effect until the expiration of the time for appealing against the conviction or

decision; or if there is an appeal against the conviction or decision, until the appeal is determined; and the person is deemed to have been granted leave of absence until the expiration of that time, and is not capable of acting as a director during that time;

- (e) a person who is disqualified to act as a director of ARH under the Act or another enactment;
- (f) a person who is an employee of any member of the ARC Group; or
- (g) a person who has not, as at the time of appointment or at any time during his or her term in office, complied with any conditions imposed by the ARC regarding his or her appointment as a Director.

4.5 Requirement Before Appointment

Before a person may be appointed as a Director, the person must:

- (a) consent in writing to being a Director; and
- (b) certify that he or she is not disqualified from being a Director; and
- (c) disclose to ARH and the ARC the nature and extent (including monetary value, if quantifiable) of all Interests (as defined in rule 9.8) that the person has at that time, or is likely to have, in matters relating to the ARC Group.

4.6 Vacation of Office

Without limiting clause 4 of schedule 1 to the Act, a Director will cease to hold office as a Director if the Director:

- (a) resigns in accordance with rule 4.7;
- (b) is removed from office under these Rules or any enactment;
- (c) is disqualified in accordance with rule 4.4; or
- (d) otherwise ceases to hold office.

4.7 Resignation of Directors

A Director may resign from office by written notice to the ARC (with a copy to ARH) in accordance with clause 4(1)(c) of schedule 1 to the Act. A Director's resignation is effective on receipt by the ARC of the notice or at any later time specified in the notice.

4.8 No Compensation for Loss of Office

A Director is not entitled to any compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office as a Director.

4.9 No Alternate Directors

A Director may not appoint an alternate director or other person to represent that Director.

5. Long Term Funding Plan

The Board will authorise the provision of funds to the ARC in accordance with:

- (a) the Long Term Funding Plan; or
- (b) if ARH has not completed its first Long Term Funding Plan, any written instruction from the ARC (by council resolution).

6. Delegation of Powers

6.1 General Authority

The Board may delegate any of the functions or powers of ARH or the Board, either generally or specifically, by resolution and written notice to the delegate (with a copy to the ARC).

If the Board proposes the delegation of any function or power to a person who is not a Director or employee of ARH or the ARC, then the Board must obtain the prior written approval of the ARC to any such delegation. The Board is not required to obtain such approval from the ARC if the relevant delegation is provided for in the Statement of Intent or the Long Term Funding Plan.

6.2 Restrictions

The Board will not delegate the general power of delegation.

6.3 Delegates

A delegate to whom any functions or powers of ARH or the Board are delegated, may:

- (a) unless the delegation provides otherwise, perform the function or exercise the power in the same manner, subject to the same restrictions, and with the same effect as if the delegate were ARH or the Board; and
- (b) delegate the function or power only:
 - (i) with the prior written approval of the Board; and
 - (ii) subject to the same restrictions, and with the same effect, as if the sub-delegate were the delegate.

A delegate who purports to perform a function or exercise a power under a delegation is, in the absence of proof to the contrary, presumed to do so in accordance with the terms of that delegation.

6.4 Effect

No delegation in accordance with these Rules:

- (a) affects or prevents the performance of any function or the exercise of any power by ARH or the Board; or
- (b) affects the responsibility of the Board for the actions of any delegate acting under the delegation; or

- (c) is affected by any change in the membership of the Board or of any committee or class of persons or by any change in an employee of ARH.

6.5 **Revocation**

A delegation may be revoked by the Board by written notice to the delegate and the ARC, or by any other method provided for in the delegation. A delegation under rule 6.3(b) may be revoked by written notice of the delegate to the subdelegate.

6.6 **Disclosure of Interest**

Rule 9 applies to the delegate as if the delegate were a Director and as if disclosure must be made to the Board (and with any other necessary modification).

7. **Directors' Duties**

7.1 **Accountability**

Directors are accountable to the ARC for performance of their collective and individual duties as Directors.

7.2 **Collective Duties of the Board**

The Board must ensure that ARH:

- (a) acts in a manner consistent with its statutory objectives, principles and functions, and complies with these Rules and the Statement of Intent; and
- (b) performs its functions efficiently and effectively.

7.3 **Individual Duties of Directors**

A Director must:

- (a) not contravene, or cause the contravention of, or agree to ARH contravening, the Act, any other enactment or these Rules;
- (b) act in good faith, with honesty and integrity;
- (c) exercise a power for a proper purpose; and
- (d) exercise the care, diligence, and skill that a reasonable person would exercise in the same circumstances, taking into account (without limitation):
 - (i) the nature of ARH;
 - (ii) the nature of the action; and
 - (iii) the position of the Director and the nature of the responsibilities undertaken by him or her.

7.4 Reliance on Information & Advice

In performing his or her duties, a Director may rely on reports, statements, financial data, and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:

- (a) an employee of the ARC Group whom the Director believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
- (b) a professional adviser or expert in relation to matters that the Director believes on reasonable grounds to be within the person's professional or expert competence;
- (c) any other Director or a committee of the Board on which the Director did not serve in relation to matters within the Director's or committee's designated authority.

This rule 7.4 only applies to a Director if the Director:

- (a) acts in good faith; and
- (b) makes proper inquiry if the need for inquiry is indicated by the circumstances; and
- (c) has no knowledge that the reliance is unwarranted.

7.5 Collaboration & Co-operation

In order to assist collaboration and co-operation by ARH with the ARC, the Board will:

- (a) consult with the ARC regarding the following matters prior to:
 - (i) any appointment or removal of a director of an ARH Controlled Organisation; and
 - (ii) any approval of, or making any significant modification to, a statement of intent of an ARH Controlled Organisation (including any statement of corporate intent of POAL or its subsidiaries);
- (b) notify the ARC Chief Executive of any proposed transaction subject to rule 3.1 as early as practicable but not less than 14 days prior to the date of the proposed transaction;
- (c) comply with any protocol agreed by the ARC and the Board regarding collaboration and co-operation by ARH with the ARC; and
- (d) in accordance with section 19(2)(a) of the Act, collaborate and co-operate with the ARC and the Auckland Regional Transport Authority to achieve the overall objectives of the ARC that have been notified by the ARC to ARH.

Any such consultation must be undertaken in sufficient time to allow the ARC Chief Executive to report to members of the ARC and obtain any direction the ARC Chief Executive requires from the members regarding the ARC's views on the matters subject to consultation. The Directors will provide to the ARC Chief Executive, a reasonable period before such consultation or notification regarding the relevant matter (being, in the case of any matter relating to a statement of intent or statement of corporate intent, at least 14 days), sufficient information to allow the ARC Chief Executive to make an informed assessment of the relevant matter which is subject to consultation or notification.

7.6 Performance Review

The performance of each Director will be reviewed annually in accordance with the ARC's Appointment and Remuneration Policy for Directors of ARC Organisations.

8. Proceedings of the Board

8.1 Methods of Holding Meetings

A meeting of the Board may be held either:

- (a) by a number of the Directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- (b) by means of audio, or audio and visual, communication by which all the Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.

8.2 Notice of Meeting

A Director or, if requested by a Director to do so, an employee of ARH approved by the Board for this purpose, may convene a meeting of the Board by giving at least 5 working days' notice of such meeting.

A notice of a meeting of Directors:

- (a) must be written, and state the time and place of the meeting;
- (b) must be sent to the last known address in New Zealand of every Director who is in New Zealand; and
- (c) may be given by post, delivery or electronic communication.

8.3 Waiver of Irregularity

An irregularity in a notice of meeting is waived if all the Directors entitled to receive notice of the meeting either:

- (a) attend or participate in the meeting without protest as to the irregularity; or
- (b) do not attend or participate in the meeting, but agree to the waiver of the irregularity.

8.4 Minutes

The Board will ensure that minutes are kept of all proceedings at meetings of the Board.

8.5 Quorum

Subject to rule 8.6, a quorum for a meeting of the Board is a majority of the Directors, for so long as their number is not reduced below the minimum number fixed by rule 4.1. No business may be transacted at a meeting of the Board if a quorum is not present.

8.6 Insufficient Number of Directors

The Directors may act notwithstanding any vacancy in their body, but if and for so long as their number is reduced below the minimum number fixed by rule 4.1, the Board may meet only to notify the ARC that additional Directors must be appointed to constitute the minimum number of Directors to allow a quorum.

8.7 Chairperson & Deputy Chairperson

The ARC may appoint and remove a Director as chairperson or deputy chairperson (as the case may be) of the Board by written notice to the relevant Director (with a copy to the Board). The notice must state the date on which the appointment or removal (as the case may be) takes effect.

If at any meeting the chairperson is not present within fifteen minutes after the time appointed for the commencement of the meeting or is interested in the relevant matter, the deputy chairperson (if he or she is not interested in the relevant matter) will be the chairperson of the meeting. If the deputy chairperson is not present within fifteen minutes after the time appointed for the commencement of the meeting or is interested in the relevant matter, the Directors present may select one of their number (who is not interested in the relevant matter) to be chairperson of the meeting.

8.8 Term of Appointment

The chairperson and deputy chairperson hold office until:

- (a) he or she resigns from that office by written notice to the ARC (with a copy to the Board). Such notice must state the date on which resignation takes effect (which may not be a date before the date of such notice); or
- (b) he or she is removed from that office by the ARC by written notice to that individual (with a copy to the Board); or
- (c) he or she ceases to hold office as a Director; or
- (d) the term of the office that may have been specified on appointment expires, unless the Director is reappointed for a further term.

8.9 Votes

Every Director has one vote. In the case of an equality of votes, the chairperson will not have a casting vote. A resolution of the Board is passed if it is agreed to by all Directors present without dissent or a majority of the votes cast on it are in favour of it. A Director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board unless that Director expressly dissents or expressly abstains from voting on, or votes against, the resolution.

8.10 Resolutions in Writing

A resolution in writing, signed or assented to by all Directors then entitled to receive notice of a Board meeting, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents (including facsimile or other similar means of communication) in like form, each signed or assented to by one or more Directors. A copy of any such resolution must be sent, within 5 working days of its being passed, to any Directors who did not sign or assent to the resolution and entered in or kept with the records of Board proceedings.

8.11 Committees

The Board may (by resolution) appoint a committee of Directors to exercise any of ARH's functions or powers delegated to that committee by the Board. The Board will appoint a chairperson of each committee of Directors.

The Board will appoint an assurance and risk committee of Directors. The principal function of the assurance and risk committee will be to assist the Board in producing accurate financial statements in compliance with all applicable legal requirements and accounting standards. The Board will prepare terms of reference for the assurance and risk committee (and any other committee) and will provide, on request, a copy of such terms of reference to the ARC.

8.12 Other Procedures

Except as set out in these Rules, the Act or any other enactment, the Board or the relevant committee (as the case may be) may regulate its own procedure.

8.13 Validity of Acts

All acts done by any meeting of the Board or of a committee of Directors or by any person acting as a Director are valid notwithstanding:

- (a) any defect in the appointment of any Director or person acting as a Director;
- (b) that they or any of them were disqualified;
- (c) that the occasion for the person acting, or for his or her appointment, had not arisen or had ended; or
- (d) any irregularity in a notice of meeting.

9. Directors' Interests

9.1 Disclosure of Interests

A Director will, on the creation of any Interest or immediately after becoming aware of such Interest, disclose details of the Interest to the Board and to the ARC. The details that must be disclosed include:

- (a) the nature of the Interest and the monetary value of the Interest (if the monetary value can be quantified);
- (b) the nature and extent of the Interest (if the monetary value cannot be quantified).

9.2 General Disclosure

For the purposes of rule 9.1, a general notice entered in the Interests Register and disclosed to the Board and to the ARC to the effect that a Director is a shareholder, director, officer or trustee of another named organisation or other person and is to be regarded as interested in any matter which may, after the date of the entry or disclosure, be entered into with that organisation or person, is a sufficient disclosure of Interest in relation to that matter.

9.3 **Interests Register Details**

The relevant Interested Director will ensure that such details of his or her Interest are entered in the Interests Register and disclosed in the applicable annual report of ARH.

9.4 **Interested Directors may not Vote**

A Director who is Interested in a matter may attend a meeting of the Board at which that matter arises, but must not:

- (a) vote or take part in any discussion or decision by the Board or any committee relating to the matter, or otherwise participate in any activity of any ARH Group member that relates to the matter;
- (b) be included among the Directors present at a meeting of the Board for the purposes of a quorum during which a decision or discussion relating to the matter occurs or is made;
- (c) sign a document relating to the matter on behalf of any ARH Group member; and
- (d) do any other thing in his or her capacity as a Director in relation to the matter.

The ARC may approve a Director with a specified class of Interest to do anything otherwise prohibited by this rule 9.4. The approval may:

- (a) state conditions that the Director must comply with; and
- (b) be amended or revoked by the ARC by written notice to the Board.

9.5 **No Application in Certain Cases**

Nothing in this rule 9 applies in relation to:

- (a) remuneration or any other benefit given to a Director in accordance with these Rules; or
- (b) an indemnity given or insurance provided in accordance with these Rules.

9.6 **Failure to Disclose**

The Board will notify the ARC of any failure of any Director to comply with this rule 9 and of the acts affected, as soon as practicable after becoming aware of the failure.

9.7 **Elected Members**

For the avoidance of doubt, this rule 9 does not limit the requirements of the Local Authorities (Members' Interests) Act 1968.

9.8 **Interpretation**

In this rule 9:

“**matter**” means:

- (a) ARH's performance of its functions or the exercise of its powers; or

- (b) an agreement, arrangement or other transaction entered into, or proposed to be entered into, by ARH;

"Interested" means where a Director:

- (a) is a party to, or will or may derive a material financial benefit from the matter; or
- (b) has a material financial interest in another party to the matter; or
- (c) is a director, employee, or trustee of another party to, or person who will or may derive a material financial benefit from, the matter, not being a party or person that is a member of the ARC Group;
- (d) is the parent, child, or spouse or de facto partner of another party to, or person who will or may derive a material financial benefit from, the matter; or
- (e) is otherwise directly or indirectly materially interested in the matter,

(and **"Interest"** will be interpreted accordingly).

However, a Director is not interested in a matter if his or her interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence him or her in carrying out his or her responsibilities under these Rules, the Act or any other enactment.

10. Directors' Remuneration & Other Benefits

10.1 Remuneration & Benefits

The Board may, subject to the prior written approval of the ARC, authorise:

- (a) the payment by ARH of remuneration or the provision of other benefits (including reimbursement of reasonable travel, accommodation and other expenses incurred by the Director relating to the Director's attendance at meetings or otherwise relating to the activities of ARH) by ARH to a Director for services as a Director (but not in any other capacity); or
- (b) the entering into of any agreement by ARH to do those things.

10.2 Interests Register Details

The Board will ensure that forthwith after authorising the making of such payment or the provision of such benefit or the entering into of such agreement, particulars of that payment, benefit or agreement are entered in the Interests Register in relation to the relevant Director.

11. Indemnity & Insurance for Directors & Employees

11.1 Protection from Liability

A Director or employee of ARH is not liable for any liability of ARH by reason only of being a Director or employee of ARH.

11.2 Indemnity - Costs of Proceedings

ARH may indemnify a director or employee of any ARH Group member for any costs incurred by him or her in any proceedings:

- (a) that relate to liability for any act or omission in his or her capacity as a director or employee; and
- (b) in which judgment is given in his or her favour, or in which he or she is acquitted or which is discontinued.

11.3 Indemnity – Liability

ARH may indemnify any director or employee of any ARH Group member in respect of:

- (a) liability to any person other than ARH or any ARC Group member for any act or omission in his or her capacity as a director or employee; or
- (b) costs incurred by that director or employee in defending or settling any claim or proceeding relating to such liability,

not being criminal liability or liability in respect of a breach, in the case of an employee, of any fiduciary duty owed to ARH or any ARC Group member.

11.4 Insurance

ARH may, in the absence of relevant insurance cover arranged by the ARC, effect insurance for any director or employee of an ARH Group member (or any employee of the ARC seconded to an ARH Group member or undertaking activities on behalf of an ARH Group member) in respect of:

- (a) liability, not being criminal liability, for any act or omission in his or her capacity as a director or employee;
- (b) costs incurred by that director or employee in defending or settling any claim or proceeding relating to any such liability;
- (c) costs incurred by that director or employee in defending any criminal proceedings:
 - (i) that have been brought against the director or employee in relation to any act or omission in his or her capacity as a director or employee; and
 - (ii) in which he or she is acquitted.

11.5 Certificate & Interests Register

The Directors who vote in favour of authorising the effecting of insurance under rule 11.4 must sign a certificate stating that, in their opinion, the cost of effecting the insurance is fair to ARH.

The Board will ensure that particulars of any indemnity given to, or insurance effected for, any director or employee of any ARH Group member are forthwith entered in the Interests Register.

11.6 Definitions

In this rule 11:

“**director**” includes a former director;

“**effect insurance**” includes paying, whether directly or indirectly, the costs of insurance;

“**employee**” includes a former employee; and

“**indemnify**” includes relieve or excuse from liability, whether before or after the liability arises, and “**indemnity**” has a corresponding meaning.

12. **Interests Register**

The Board will maintain an Interests Register. The Interests Register will be held by ARH at its principal office. The Interests Register will not be open to public inspection but may be used by ARC at any time in relation to:

- (a) ensuring compliance with any enactment, these Rules or any policy or procedure of any ARC Group member; and
- (b) any allegation of insider trading made against any member of the ARC Group or any director or any employee of any such member.

13. **Information for ARC**

13.1 **Power to request information**

The Board will ensure that ARH makes available to the ARC (without charge):

- (a) subject to any confidentiality agreement entered into by ARH, in a timely manner, any information required by the ARC to perform its responsibilities, functions or exercise its powers under any enactment or these Rules; and
- (b) in a timely manner prior to (or at the same time as) any request for such approval, sufficient information to enable the ARC to make an informed decision in relation to any matter which requires the ARC's approval under these Rules or, in relation to ARH, any enactment; and
- (c) any policy or procedure of ARH approved by the Board.

The Board will also make available for inspection by the ARC (or any representative of the ARC) at any time during a working day (without charge) the information referred to in this rule 13.1.

13.2 **ARC Meetings**

The Board will hold meetings with the ARC:

- (a) at least once in every 3-month period;
- (b) in accordance with any notice received from the ARC.

The purpose of those meetings will be to review the performance of any ARH Group member, the Board and the Directors and discuss any matters relating to any ARH Group member that may be expected by the ARC to arise in the future. The ARC will regulate the procedures at such meetings.

13.3 **Regular Reports**

The Board will ensure that ARH provides regular reports to the ARC regarding the assets, liabilities and activities of ARH in accordance with the Statement of Intent.

14. ARH Information

14.1 Restriction on Use & Disclosure

A Director who has confidential information in his or her capacity as a Director must not disclose that information to any person, or make use of or act on the information, except:

- (a) in the performance of ARH's functions; or
- (b) as required by law; or
- (c) in accordance with rule 14.2; or
- (d) in complying with his or her obligation to make disclosure under these Rules or any policy or procedure of ARH.

14.2 Procedure for Disclosure, Use, etc

Subject to rule 14.1, a Director may disclose, make use of or act on, the information if:

- (a) particulars of the disclosure, use, or the act in question are entered in the Interests Register; and
- (b) the Director is first authorised to do so by the Board and the ARC; and
- (c) the disclosure, use or act in question will not, or will not be likely to, prejudice ARH or the ARC.

15. Method of Contracting

15.1 Deeds

A deed which is to be entered into by ARH may be signed on behalf of ARH by:

- (a) two or more Directors; or
- (b) one or more attorneys appointed by ARH.

15.2 Other Written Contracts

An obligation or contract which is required by law to be in writing, and any other written obligation or contract which is to be entered into by ARH, may be signed on behalf of ARH by a person acting under the express or implied authority of ARH.

15.3 Other Obligations

Any other obligation or contract may be entered into on behalf of ARH in writing or orally by a person acting under the express or implied authority of ARH.

15.4 Attorneys

ARH may by an instrument in writing executed in accordance with rule 15.1 appoint a person as its attorney either generally or in relation to a specified matter. An act of the person as the attorney of ARH in accordance with that instrument will bind ARH.

16. Records

16.1 Corporate Records

ARH will keep the following documents at its principal office:

- (a) a copy of these Rules;
- (b) a copy of each Statement of Intent required to be completed by section 64 of the Local Government Act 2002 and any subsequent modifications made to such statement in accordance with section 26 of the Act;
- (c) a copy of the Long Term Funding Plan and any modifications made to such plan in accordance with section 21 of the Act;
- (d) the full names and residential addresses of the current Directors;
- (e) minutes of all meetings and resolutions of the Board and any committee of the Board within the last 7 years;
- (f) the Interests Register;
- (g) notifications and approvals provided to or received from the ARC under these Rules during the last 7 years;
- (h) all certificates given by Directors under these Rules within the last 7 years;
- (i) all approved policies and procedures of ARH;
- (j) copies of all other written communications to the ARC, including the half yearly reports and annual reports under sections 66 and 67 of the Local Government Act 2002.

16.2 Accounting Records

The Board will cause accounting records to be kept by ARH that:

- (a) correctly record and explain the transactions of ARH;
- (b) will at any time enable the financial position of ARH to be determined with reasonable accuracy;
- (c) will enable the financial statements of ARH to be readily and properly audited.

The accounting records will contain:

- (d) entries of money received and spent every day and the matters to which it relates; and
- (e) a record of the assets and liabilities of ARH.

16.3 Form & Location of Records

The Board will ensure that:

- (a) the records of ARH will be kept:

- (i) in written form; or
 - (ii) in a form or in a manner that allows the documents and information that comprise the records to be easily accessible and convertible into written form;
- (b) the records of ARH will be kept at the principal office of ARH; and
- (c) adequate measures exist to prevent the records being falsified or to detect any falsification of them.